



General Assembly

Amendment

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LCO No. 5476

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Offered by:

REP. NARDELLO, 89th Dist.

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To: Senate Bill No. 389

File No. 215

Cal. No. 280

"AN ACT CONCERNING THE CONNECTICUT CLEAN ENERGY FUND."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective from passage*) (a) There is hereby
4 established and created a body politic and corporate, constituting a
5 public instrumentality and political subdivision of the state of
6 Connecticut established and created for the performance of an
7 essential public and governmental function, to be known as the
8 Connecticut Energy Authority. The authority shall not be construed to
9 be a department, institution or agency of the state. The authority shall
10 not be considered a "public service company" as defined by section 16-
11 1 of the 2008 supplement to the general statutes. The purpose of said
12 authority shall be to achieve the lowest reasonable electricity costs for
13 customers. The authority's reasonable start-up and operating expenses
14 shall be recovered through the systems benefits charge established
15 pursuant to section 16-245l of the general statutes.

16 (b) On and after October 1, 2009, such authority shall act as a broker
17 to procure electricity for standard service and supplier of last resort
18 service on behalf of the electric distribution companies and municipal
19 electric authorities. On and after October 1, 2010, such authority shall
20 (1) procure least-cost supply-side and demand-side resources through
21 competitive procurement processes to meet the electricity needs of
22 customers in the state; (2) construct and operate generation facilities;
23 and (3) sell electricity at cost to distribution companies and to
24 municipal electric utilities and cooperatives.

25 (c) The powers of the authority shall be vested in and exercised by a
26 board of directors, which shall consist of nine directors as follows: (1)
27 The Secretary of the Office of Policy and Management, or the
28 secretary's designee, (2) the Commissioner of Environmental
29 Protection, or the commissioner's designee, (3) the Consumer Counsel,
30 or the Consumer Counsel's designee, (4) a director appointed by the
31 majority leader of the Senate, (5) a representative of the environmental
32 community appointed by the president pro tempore of the Senate, (6) a
33 representative of a consumer advocacy group with energy expertise
34 appointed by the speaker of the House of Representatives, (7) a
35 director appointed by the majority leader of the House of
36 Representatives, (8) a director appointed by the minority leader of the
37 Senate, and (9) a director appointed by the minority leader of the
38 House of Representatives. No director may be a member of the
39 General Assembly. All appointments shall be made within sixty days
40 after the effective date of this section. The appointed directors shall
41 serve for terms of four years each and shall have primary education or
42 expertise in the areas of energy or electricity. Any appointed director
43 who fails to attend three consecutive meetings of the board or who
44 fails to attend fifty per cent of all meetings of the board held during
45 any calendar year shall be deemed to have resigned from the board.
46 Any vacancy occurring other than by expiration of term shall be filled
47 in the same manner as the original appointment for the balance of the
48 unexpired term. At its first meeting, the board shall elect a chairperson.
49 The positions of each such appointed director shall be salaried and

50 exempt from classified service. Both houses shall confirm or reject such
51 appointments.

52 (d) The chairperson shall, with the approval of the directors,
53 appoint a president of the authority who shall be an employee of the
54 authority and paid a salary prescribed by the directors. The president
55 shall supervise the administrative affairs and technical activities of the
56 authority in accordance with the directives of the board.

57 (e) Six directors of the authority shall constitute a quorum for the
58 transaction of any business or the exercise of any power of the
59 authority. For the transaction of any business or the exercise of any
60 power of the authority, and except as otherwise provided in sections 1
61 to 4, inclusive, of this act, sections 16-244b, 16-244d, subsection (c) of
62 section 16-244i, sections 16-245d and 16-245q of the general statutes,
63 the authority shall have power to act by a majority of the directors
64 present at any meeting at which a quorum is in attendance.

65 (f) Appointed directors may not designate a representative to
66 perform in their absence their respective duties under sections 1 to 4,
67 inclusive, of this act, sections 16-244b, 16-244d, subsection (c) of section
68 16-244i, sections 16-245d and 16-245q of the general statutes.

69 (g) The term "director", as used in this section, shall include such
70 persons so designated as provided in this section and this designation
71 shall be deemed temporary only and shall not affect any applicable
72 civil service or retirement rights of any person so designated.

73 (h) The authority shall continue as long as it has bonds or other
74 obligations outstanding and until its existence is terminated by law.
75 Upon the termination of the existence of the authority, all its rights and
76 properties shall pass to and be vested in the state of Connecticut.

77 (i) The directors and officers of the authority shall not be liable
78 personally for damage or injury, not wanton or wilful, caused in the
79 performance of such person's duties and within the scope of such
80 person's employment or appointment as such director or officer.

81 (j) On or before February 1, 2010, the authority shall report to the
82 joint standing committee of the General Assembly having cognizance
83 of matters relating to energy regarding its brokerage activities and
84 whether such brokerage creates savings for ratepayers. Said report
85 shall include, but not be limited to, the authority's recommendations
86 on lowering costs through procuring power, long-term contracts or
87 constructing and operating generation facilities itself, utility owned
88 generation and on making the process more transparent.

89 (k) If the authority, pursuant to subsection (b) of this section,
90 procures resources or constructs generation facilities, it shall do so in
91 consideration of the resource procurement plans developed pursuant
92 to subdivision (4) of subsection (c) of section 16-244c of the 2008
93 supplement to the general statutes, as amended by this act.

94 Sec. 502. (NEW) (*Effective from passage*) On or before January 1, 2009,
95 the Connecticut Energy Authority established pursuant to section 1 of
96 this act shall issue a request for proposals for the purpose of procuring
97 long-term electricity contracts for Connecticut citizens. The authority
98 may, once power is procured, transfer title to such power to the electric
99 distribution companies and municipal electric energy cooperatives.
100 The administrative costs of the contracts shall be charged to ratepayers
101 on nonbypassable charges.

102 Sec. 503. (NEW) (*Effective from passage*) The directors of the
103 Connecticut Energy Authority shall meet at least monthly at the call of
104 the chairperson and may meet more frequently, if necessary and
105 desirable. The first meeting shall be held on or before July 1, 2009. The
106 directors shall maintain at all times minutes of its meetings including
107 the authority's considerations, deliberations, decisions and resolutions,
108 which minutes shall be considered public records. The authority shall
109 maintain all necessary records and data with respect to its operations
110 and shall report annually to the Governor and the General Assembly,
111 upon its operations. Such reports shall include, but not be limited to, a
112 report on the request for proposals, a listing of the contracts entered
113 into for the procurement of electricity; a listing of the outstanding

114 issues of notes and bonds of the authority and the payment status
115 thereof; a budget showing the administrative expenses of the
116 authority; and a report of revenues of the authority from all sources
117 and of the redistribution of any surplus revenues. The authority shall
118 be subject to audit by the Auditors of Public Accounts in accordance
119 with normal auditing practices prescribed for departments, boards,
120 commissions and other agencies of the state.

121 Sec. 504. (NEW) (*Effective from passage*) The Connecticut Energy
122 Authority shall have power to:

123 (1) Employ a staff and hire consultants;

124 (2) Establish offices where necessary in the state of Connecticut;

125 (3) Make and enter into any contract or agreement necessary or
126 incidental to the performance of its duties and execution of its powers;

127 (4) Sue and be sued;

128 (5) Have a seal and alter it at pleasure;

129 (6) Make and alter bylaws and rules and regulations with respect to
130 the exercise of its own powers;

131 (7) Conduct such hearings, examinations and investigations as may
132 be necessary and appropriate to the conduct of its operations and the
133 fulfillment of its responsibilities;

134 (8) Obtain access to public records and apply for the process of
135 subpoena if necessary to produce books, papers, records and other
136 data;

137 (9) Charge reasonable fees for the services it performs and waive,
138 suspend, reduce or otherwise modify such fees, in accordance with
139 criteria established by the authority;

140 (10) Purchase, lease or rent such real and personal property as it
141 may deem necessary, convenient or desirable;

142 (11) Appoint such state and local advisory councils as it may from
143 time to time deem advisable;

144 (12) Otherwise, do all things necessary for the performance of its
145 duties, the fulfillment of its obligations and the conduct of its
146 operations;

147 (13) Receive and accept, from any source, aid or contributions,
148 including money, property, labor and other things of value;

149 (14) Invest any funds not needed for immediate use or disbursement
150 in obligations issued or guaranteed by the United States of America or
151 the state of Connecticut and in obligations that are legal investments
152 for savings banks in this state;

153 (15) Adopt regular procedures for exercising its power under
154 sections 1 to 4, inclusive, of this act, sections 16-244b, 16-244d,
155 subsection (c) of section 16-244i, sections 16-245d and 16-245q of the
156 general statutes, not in conflict with other provisions of the general
157 statutes;

158 (16) Enter into joint ventures with public and private parties; and

159 (17) Coordinate with the regional independent system operator, as
160 defined in section 16-1 of the 2008 supplement to the general statutes.

161 Sec. 505. Subsection (e) of section 16-244c of the 2008 supplement to
162 the general statutes is repealed and the following is substituted in lieu
163 thereof (*Effective from passage*):

164 (e) (1) On and after January 1, 2007, an electric distribution company
165 shall serve customers that are not eligible to receive standard service
166 pursuant to subsection (c) of this section as the supplier of last resort.
167 This subsection shall not apply to customers purchasing power under
168 contracts entered into pursuant to section 16-19hh.

169 (2) An electric distribution company shall procure electricity at least
170 every calendar quarter to provide electric generation services to

171 customers pursuant to this subsection. The Department of Public
172 Utility Control shall determine a price for such customers that reflects
173 the full cost of providing the electricity on a monthly basis and that is
174 the least-cost option to minimize cost that is consistent with the
175 approved procurement and deployment plan pursuant to this section
176 or, on an alternative basis as determined pursuant to subdivision (3) of
177 this subsection. Each electric distribution company shall recover the
178 actual net costs of procuring and providing electric generation services
179 pursuant to this subsection, provided such company mitigates the
180 costs it incurs for the procurement of electric generation services for
181 customers that are no longer receiving service pursuant to this
182 subsection.

183 (3) On and after July 1, 2008, the Department of Public Utility
184 Control shall conduct a contested case proceeding to study the
185 frequency with which it should determine that price for supplier of last
186 resort service and how to best minimize the cost of such service.

187 Sec. 506. Subsection (e) of section 16a-3a of the 2008 supplement to
188 the general statutes is repealed and the following is substituted in lieu
189 thereof (*Effective from passage*):

190 (e) The board, in consultation with the regional independent system
191 operator, shall review and approve or review, modify and approve the
192 proposed procurement plan as submitted not later than one hundred
193 twenty days after receipt. For calendar years 2009 and thereafter, the
194 board shall conduct such review not later than sixty days after receipt.
195 For the purpose of reviewing the plan, the Commissioners of
196 Transportation and Agriculture and the chairperson of the Public
197 Utilities Control Authority, or their respective designees, shall not
198 participate as members of the board. The electric distribution
199 companies shall provide any additional information requested by the
200 board that is relevant to the consideration of the procurement plan. In
201 the course of conducting such review, the board shall conduct a public
202 hearing, may retain the services of a third-party entity with experience
203 in the area of energy procurement and may consult with the regional

204 independent system operator. The board shall submit the reviewed
205 procurement plan, together with a statement of any unresolved issues,
206 to the Department of Public Utility Control. The department shall
207 consider the procurement plan in an uncontested proceeding and shall
208 conduct a hearing and provide an opportunity for interested parties,
209 including, but not limited to, the Connecticut Energy Authority if such
210 authority has not submitted a proposal pursuant to this section, to
211 submit comments regarding the procurement plan. Not later than one
212 hundred twenty days after submission of the procurement plan, the
213 department shall approve, or modify and approve, the procurement
214 plan. The department shall make such approval, or modification and
215 approval, in consideration of the lowest cost solution for ratepayers
216 and shall examine the widest range of resources. For calendar years
217 2009 and thereafter, the department shall approve, or modify and
218 approve, said procurement plan not later than sixty days after
219 submission.

220 Sec. 507. Section 16a-3b of the 2008 supplement to the general
221 statutes is repealed and the following is substituted in lieu thereof
222 (*Effective from passage*):

223 (a) The Department of Public Utility Control shall oversee the
224 implementation of the procurement plan approved by the Department
225 of Public Utility Control pursuant to section 16a-3a of the 2008
226 supplement to the general statutes, as amended by this act. The electric
227 distribution companies shall implement the demand-side measures,
228 including, but not limited to, energy efficiency, load management,
229 demand response, combined heat and power facilities, distributed
230 generation and other emerging energy technologies, specified in said
231 procurement plan through the comprehensive conservation and load
232 management plan prepared pursuant to section 16-245m of the 2008
233 supplement to the general statutes for review by the Energy
234 Conservation Management Board. The electric distribution companies
235 shall submit proposals to appropriate regulatory agencies to address
236 transmission and distribution upgrades as specified in said
237 procurement plan.

238 (b) If the procurement plan specifies the construction of a generating
239 facility, the department shall develop and issue a request for
240 proposals, shall publish such request for proposals in one or more
241 newspapers or periodicals, as selected by the department, and shall
242 post such request for proposals on its web site. Pursuant to a
243 nondisclosure agreement, the department shall make available to the
244 Office of Consumer Counsel and the Attorney General all confidential
245 bid information it receives pursuant to this subsection, provided the
246 bids and any analysis of such bids shall not be subject to disclosure
247 under the Freedom of Information Act. Three months after the
248 department issues a final decision, it shall make available all financial
249 bid information, provided such information regarding the bidders not
250 selected be presented in a manner that conceals the identities of such
251 bidders.

252 (1) On and after July 1, 2008, an electric distribution company may
253 submit proposals in response to a request for proposals on the same
254 basis as other respondents to the solicitation. A proposal submitted by
255 an electric distribution company shall include its full projected costs
256 such that any project costs recovered from or defrayed by ratepayers
257 are included in the projected costs. An electric distribution company
258 submitting any such bid shall demonstrate to the satisfaction of the
259 department that its bid is not supported in any form of cross
260 subsidization by affiliated entities. If the department approves such
261 electric distribution company's proposal, the costs and revenues of
262 such proposal shall not be included in calculating such company's
263 earning for purposes of, or in determining whether its rates are just
264 and reasonable under, sections 16-19, 16-19a and 16-19e of the 2008
265 supplement to the general statutes. An electric distribution company
266 shall not recover more than the full costs identified in any approved
267 proposal. Affiliates of the electric distribution company may submit
268 proposals pursuant to section 16-244h, regulations adopted pursuant
269 to section 16-244h and other requirements the department may
270 impose.

271 (2) If the department selects a nonelectric distribution company

272 proposal, an electric distribution company shall, within thirty days of
273 the selection of a proposal by the department, negotiate in good faith
274 the final terms of a contract with a generating facility and shall apply
275 to the department for approval of such contract. Upon department
276 approval, the electric distribution company shall enter into such
277 contract.

278 (3) The department shall determine the appropriate manner of cost-
279 of-service cost recovery for proposals selected pursuant to this section.
280 In addition, proposals selected pursuant to this section, other than
281 proposals submitted by the Connecticut Energy Authority, shall
282 include earning a reasonable rate of return.

283 (4) The department may retain the services of a third-party entity
284 with expertise in the area of energy procurement to oversee the
285 development of the request for proposals and to assist the department
286 in its approval of proposals pursuant to this section. The reasonable
287 and proper expenses for retaining such third-party entity shall be
288 recoverable through the generation services charge.

289 (c) The electric distribution companies shall issue requests for
290 proposals to acquire any other resource needs not identified in
291 subsection (a) or (b) of this section but specified in the procurement
292 plan approved by the Department of Public Utility Control pursuant to
293 section 16a-3a of the 2008 supplement to the general statutes, as
294 amended by this act. Such requests for proposals shall be subject to
295 approval by the department.

296 Sec. 508. Subsection (l) of section 1-79 of the 2008 supplement to the
297 general statutes is repealed and the following is substituted in lieu
298 thereof (*Effective from passage*):

299 (l) "Quasi-public agency" means the Connecticut Development
300 Authority, Connecticut Innovations, Incorporated, Connecticut Health
301 and Education Facilities Authority, Connecticut Higher Education
302 Supplemental Loan Authority, Connecticut Housing Finance
303 Authority, Connecticut Housing Authority, Connecticut Resources

304 Recovery Authority, Lower Fairfield County Convention Center
305 Authority, Capital City Economic Development Authority,
306 Connecticut Energy Authority and Connecticut Lottery Corporation.

307 Sec. 509. Subdivision (6) of subsection (a) of section 16-244e of the
308 2008 supplement to the general statutes is repealed and the following
309 is substituted in lieu thereof (*Effective from passage*):

310 (6) Once unbundling is completed to the satisfaction of the
311 department and consistent with the provisions of section 16-244, (A)
312 any corporate affiliate or separate division that provides electric
313 generation services as a result of unbundling pursuant to this
314 subsection shall be considered a generation entity or affiliate of the
315 electric company, and the division or corporate affiliate of the electric
316 company that provides transmission and distribution services shall be
317 considered an electric distribution company, and (B) an electric
318 distribution company shall not own or operate generation assets,
319 except as provided in this section and sections 1 to 4, inclusive, of this
320 act, sections 16-43d of the 2008 supplement to the general statutes, 16-
321 243m of the 2008 supplement to the general statutes, 16-243u of the
322 2008 supplement to the general statutes, 16a-3b of the 2008 supplement
323 to the general statutes, as amended by this act, and 16a-3c of the 2008
324 supplement to the general statutes.

325 Sec. 510. (NEW) (*Effective from passage*) The Connecticut Energy
326 Authority shall be subject to the Freedom of Information Act, as
327 defined in section 1-200 of the general statutes."